

IN THE U.S. DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
[NORTHERN DIVISION]

RECEIVED

Cedric Pugh # 182373,
Pro/Se Plaintiff

2006 AUG 25 A 9:20

-Vs-

Case No. 2:06-CV-363-MEF

Alabama Correctional Industries,
Comm. Butch Calloway,
Prison Health Services, Inc.,
et.al.
Defendants

PLAINTIFFS RESPONSE IN OPPOSITION

Comes Now, Cedric Pugh, Pro/Se, And from herein known as the Plaintiff,
And as Ordered by this Court on August 17th, 2006, Submits his Response
in Opposition to the Special Reports of the Above named Defendants,
And in Support thereof, This Plaintiff shows the following;

3.) This Plaintiff will respond to the Defendants Special Reports
as they were recieved by this Plaintiff, And filed in this court.

Defendants, P.H.S., Inc. & Doctor Peasant

This Plaintiff Avers, That the Above named Defendants are responsible
for failing to provide adequate medical treatment to this plaintiffs
Amputated Fingertip.

Upon this defendant Injuring his Finger at the Elmore Meat Processing
Plant, The above named Defendants forwarded this Plaintiff to
the Baptist South Hospital, After the above named Defendants
bandaged his finger, Upon arriving at the Baptist Health Hospital,
His bandage was removed, The finger observed, And rebandaged.
This Plaintiff was then transported back to the Defendants, "Staton

Correctional Facility" and the "Health Care Unit",Where this Plaintiff remained for Approximately (3) Three days,During this time,The Defendant Peasant ordered X-rays of his finger.

Upon the X-rays confirming this Plaintiffs Injury,Which was obvious to the Naked Eye,He was then transported to Defendant Chung's Office.It is important to note,That the Hospital Physician, Hudio Rios,Had already recommended that this Plaintiff be transported to an Orthopaedic Surgeon,And Why the Defendants,P.H.S.Inc.,And Peasant waited the (3) Three days to transport the Plaintiff is unknown,Upon arriving at Defendant Chung's,The Plaintiff was evaluated and it was determined that the Plaintiff's finger was in need of surgery [debridement] the Plaintiff was once again returned to the Staton Health Care Unit,Where he waited an additional (5) Five days until the Surgical procedure was performed.During the time in which he was placed in the Staton health care,"Medical Observation Unit",After the Surgery,The Defendant Peasant,Placed this Plaintiff on an IV antibiotics. This plaintiff had a severe allergic reaction to said antibiotic and unable to summon any help from the Health Care Personnell, this plaintiff had to remove the IV by himself,It was not until the Nurse made the evening rounds,That this plaintiff was able to inform the Health care personnell about the Allergic reaction. The plaintiff was questioned by Defendant Peasant as to why he had an allergic reaction to the antibiotics,The plaintiff contends that this information should have been ascertained prior to them being administered.

This Plaintiff was placed back on antibiotics a second time,Only to be subjected to the same allergic reactions.

Defendant Peasant placed this plaintiff in danger to allergic reactions to the antibiotics,Which is some times,Deadly.

The Plaintiff contends,That it took the Defendants (3) Three days to get this plaintiff adequate health care for his Fingertip, And each time this plaintiff was admitted to the Defendants "Health Care" unit,It was a near death experience.

The named Defendants have raised (31) Thirty-one seperate defenses, However,"In order to allege a claim upon which relief may be granted under **§1983**,a plaintiff need only show that he or she has been deprived of a right" 'secured by the constitution and..., laws' of the united states"and the deprivation was" 'under color of

state law' " **Flagg Bro's Inc. v. Brooks**, 436 U.S. 149, 155, 98 S.Ct. 1729, 56 L.ed.2d.185(1978) (quoting 42 U.S.C. §1983). Section 1983 "is not itself a source of substantive rights, but a method for vindicating federal rights elsewhere conferred." **Baker v. McCollan**, 443 U.S. 137, 144 n.3, 99 S.Ct. 2689, 61 L.ed.2d.433(1979).

In **Estelle v. Gamble**, 429 U.S. 97, 50 L.ed.2d.251, 97 S.Ct. 285(1976), the United States Supreme Court held that "deliberate Indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain', **Gregg v. Georgia**, 428 U.S. 153, 49 L.ed.2d.859, 96 S.Ct. 2909(1976) (joint opinion), Proscribed by the Eighth Amendment."

Moreover, The fact that the defendants contract out the medical services provided to prisoners does not relieve them of their duty to see to it that those medical services are adequate." See; **West v. Atkins**, 487 U.S. 42, 56, 101 L.ed.2d.40, 108 S.Ct. 2250(1988), "Contracting out prison medical care does not relieve the state of its constitutional duty to provide adequate medical care to those in its custody, and it does not deprive the states prisoners of the means to vindicate their Eighth Amendment rights."

Defendants P.H.S., Inc. and Doctor Peasant, Have a constitutional duty to provide adequate medical attention to the Prisoners in the custody of the State of Alabama, In the Instant case, They have failed, And attempt to present (31) Thirty-one defenses in the hopes that (1) One of them applies, This Plaintiff has been suffering since his fingertip was caught in the Meat Grinder, To this day he can not stand to use the Fingertip, The Defendants, In their failure to provide adequate medical treatment, Have caused this Plaintiff to lose the use of his Fingertip, It is so tender that he can not pick up a pencil with the finger without pain, The defendants must be held responsible for their actions and inactions.

CONCLUSION

Wherefore, Premises considered, This Plaintiff prays that this court will deny the Defendants P.H.S., Inc. and Doctor Peasant's Request for Summary Judgment, And Schedule a calender court date in order that a pre-trial conference may be held. This and any/all

further relief that this court deems just and proper is also
prayed for on this the 24 day of AUG 2006.

Respectfully Submitted, Cedric Pugh
Cedric Pugh, Pro/Se

CERTIFICATE OF SERVICE

This is to certify, that I have served a true and correct copy
of the foregoing pleading on all interested parties to this
proceeding, on this the 24 day of AUG 2006.

Cedric Pugh
Cedric Pugh # 182373